July 31, 1998

__Employers and Employees Will Pay Billions More__

The Costs of Kennedy-Care

"Requiring insurers and providers to do more inevitably means they will charge more. . . . Some of the people who pay the bills (employers) will decide that the happiness of those who receive the services (patients) has become too expensive a luxury and will stop insuring them."

(David Broder, *Washington Post*, July 29, 1998)

"But more sweeping proposals — embodied mainly in Democratic plans — could cripple cost control. They contain many provisions that would curb the power of managed care groups to oversee doctors and hospitals."

(Robert Samuelson, *Washington Post*, July 29, 1998)

Overlooked in the health care debate before Congress has been the basic issue of costs. By playing on America's imagined fears, Senator Kennedy has been able to deflect attention away from the real costs of his proposal to mandate, regulate, and litigate managed care into oblivion. **The problem is that while the health care horror stories he uses to sell his medicine show are isolated anecdotes, the costs will be universal.** While the aberrant abuses should be addressed and could be relatively easily, Senator Kennedy's proposal does not satisfy itself with these but instead will overlay America's entire private health insurance system. As a result, instead of the very limited costs of addressing very limited abuses, American employers and employees are facing billions and billions in unnecessary costs.

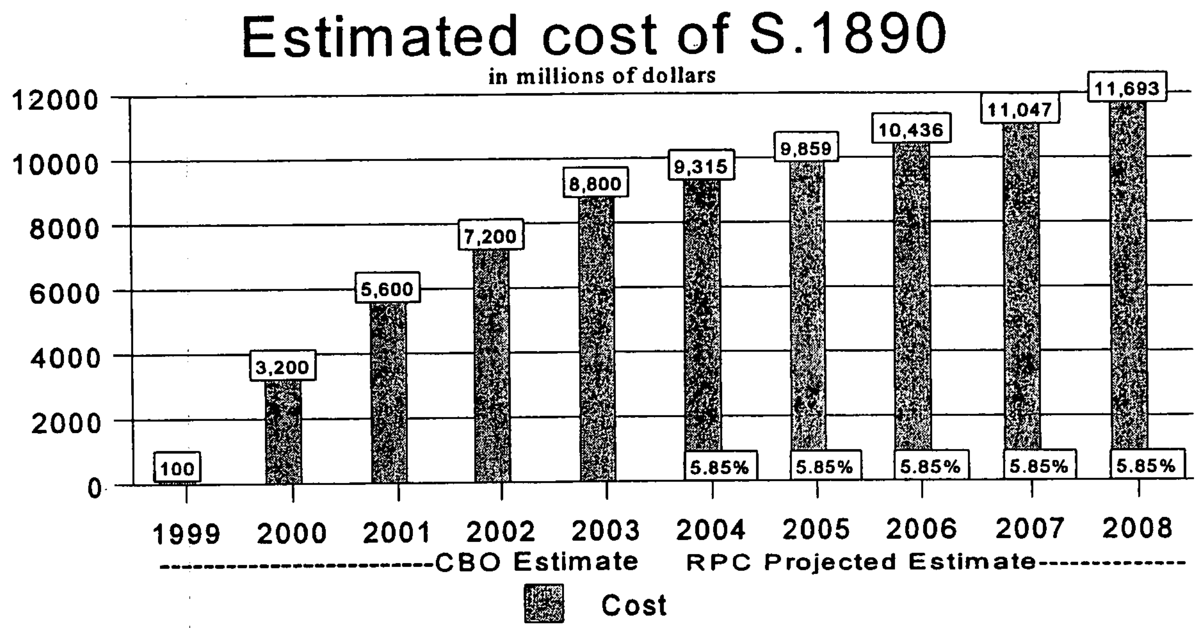
Senator Kennedy's bill, S.1890, will affect employers and employees in three distinct ways. First, it **will directly raise costs by at least $77 billion over the next ten years based on estimates from the Congressional Budget Office.** Second, it has massive potential costs arising from its expanded litigation provisions that could directly hit employers. Third, because of these costs, employers are likely to drop coverage — thus costing employers a quality workforce and denying workers irreplaceable health care benefits. In short, Kennedy-Care is no bargain to any workers unless they happen to be employed in the fields of mandating, regulating, and litigating that the Kennedy bill promises to expand.

Direct Costs

Perhaps the biggest distortion in the current debate is that the current federal regulatory structure for employer-provided health insurance prohibits patients from taking their grievances to court. In fact, **patients have always been able to sue and the courts have been expanding this right for some time. Kennedy-Care is not granting the right to sue, as it would have America believe, but recklessly expanding that right.** And expanding the right to sue means expansive costs.

According to the private estimating firm of KPMG Peat Marwick's Barents Groups, the **expanded litigation contained in Kennedy-Care would increase employment-based health care spending by up to $123 billion for private firms from 1999-2003.** It would result in 239,500 lost jobs by 2003. Since cost is the direct corollary to access, these increases would, not surprisingly, **immediately force 1.8 million more Americans into the ranks of the uninsured.**

Even the more conservative estimating methods of the Congressional Budget Office (CBO — which has yielded such stingy federal surplus projections over the last few years) reveal tens of billions in new employment costs. According to CBO's July 16 estimate, the Kennedy bill would add $24.9 billion from 1999-2003. However, that is only part of the story. Because the costs are projected to ratchet up over five years ($8.8 billion occurring in 2003 alone), the bulk of the cost effect is missed. Applying CBO's 5.85 percent projected private health cost increase rate after 2003, the total private sector cost would amount to $77.3 billion by 2008.



* 1999-2003 estimate from 7/16/98 CBO estimate of S.1890

** Uses CBO's estimate of the increase in private health sector costs to project 2004-2008 cost

Potential Costs

In addition to these direct costs, there must be added the potential costs employers face from Kennedy-Care's expanded liability. While Senator Kennedy claims that employers will be excluded from his expanded liability provisions (although increased costs would certainly filter through), the legislation itself promises something far different. Because the legislation would make employers liable for actions under their "discretionary authority," they will fall squarely in the trial lawyers' sights. **For any company, this new potential liability will be a large and unfamiliar risk — one that any company could easily deem unacceptable and, in the case of smaller ones, suicidal.**

Effective Costs

If the direct costs are not enough to dissuade employers from offering health insurance, the potential costs of being one lawsuit from bankruptcy might well be. While on the surface it might seem that the money saved from not having to pay for health insurance simply would be passed from employer to employee as commensurately higher wages, such would not be the case. **If an employer must drop health insurance both employer and employee lose.**

The employer loses because he forfeits a desirable benefit with which to attract and retain quality workers. **The employee loses because employer-provided health insurance is excluded from taxable income.** In comparison, wages would be subject to the 15.3 percent payroll tax and at least a 15 percent income tax (if the employee had a tax liability) — thus the employee loses $1 worth of health benefits for at most 70 cents worth of wages — and this is disregarding the fact that health benefits are far more expensive when obtained through the individual insurance market versus the group one.

Promises It Can't Deliver for Costs it Guarantees

Kennedy-Care seeks to swat a fly with a sledgehammer. Inevitably, such an exercise, no matter how well-intentioned, inflicts unintended consequences on far more than the intended. In this case, both employers and employees will get hit — tens of billions of times. As Kennedy-Care makes clear, even the best of intentions aren't free.

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